

S/N 10/609,243

Response to Office Action Dated 03/31/2004

REMARKS**Background Informational Recap:**

The Office Action dated 31 March 2004 requires Applicant to elect claims associated with one of two Species, i.e., Species A, readable on claims 1, 3—13, 18—
5 22 and 30, and Species B, readable on claims 23—29.

Species A was determined to be readable on claims 1, 3—13, 18—22 and 30.

Species B was determined to be readable on claims 23—29.

Species A is elected.

Claims 1, 3—13, 18—30 are currently pending.

10 Claims 2, 14—17 were previously cancelled.

Claims 1, 4, 5, 7—10 and 19—22 are original.

No claims are currently amended.

Claims 3, 6, 11—13, 18 and 30 are previously presented.

Claims 23—29 are withdrawn.

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Response:

The Applicant hereby elects Species A, which includes claims 1, 3—13, 18—
22 and 30. However, this election is made with traverse for the following reasons.

M.P.E.P. § 803 states that an application may be properly restricted only if (1)
20 the inventions are independent or distinct as claimed, and (2) there is a serious burden
on the Examiner if restriction is not required. *Thus, even if reasons exist for requiring
restriction, such a requirement should not be made unless there is an undue burden
on the Examiner to examine all of the claims in a single application.*

It would seem that the searches involved for both claim groups are not
25 burdensome. For instance, the search associated with claims in Species A *has already
been performed*, due to the parent application. The search associated with claims in

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Species B is closely related to that of Species A. Because the search associated with Species A has already been performed, a serious burden would not be imposed on the Patent Office to examine all of the claims in a single application. Due to the prior completion of the search related to claims 1, 3—13, 18—22 and 30, only the search
5 related to claims 23—29 remains. Accordingly, the burden on the Patent Office is not high, and restriction is improper. Accordingly, the Applicant requests that the Patent Office reconsider the current Election/Restriction requirement.

The Examiner is urged to contact the undersigned attorney if any issues remain unresolved by this Response.

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Respectfully Submitted,

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Dated: 5-3-04By: 

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